

Appl. No. 10/806,596
Amdt. dated April 28, 2006
Reply to Office action of March 23, 2006

FEE STATEMENT

No additional fee is due because the number and type of newly added claims are the same as the number and type of originally presented, but now cancelled claims. Nevertheless, an appropriate authorization to charge or credit the deposit account of applicant's attorney is enclosed in the required duplicate original form -- to be used if necessary.

ACKNOWLEDGMENT OF INTERVIEW

Applicant's attorney gratefully acknowledges the telephone interview granted to him by Examiner Sorkin, on April 24, 2006. During that interview, Examiner Sorkin opined that pivotally being inserted would broaden the claims. However, as presented pivotally narrows the scope of the removable cover, in accordance with the suggestion of the Examiner's action and the pivotal indication shown in Figure 4. It is hoped that this amendment complies with the spirit and letter of that interview.

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REMARKS/ARGUMENTS

The Examiner required restriction of the claims under 35 U.S.C. 121. The Examiner has grouped Invention I as claims 1-9 and claims 18-20. Invention II is grouped as claims 10-17. Consequently, an affirmation of the provisional election is discussed in addition to traverse of the restriction requirement.

Furthermore, Claim 1-4 and 18 stands rejected under 35 U.S.C. 102(b) as being anticipated by United States 5,090,815 to Bohle (hereafter Bohle). Claims 5-9, 19 and 20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Bohle. The rejections under 35 U.S.C. 102 and 103 are respectfully traversed.

RESPONSE TO 35 U.S.C 102 REJECTIONS

Claim 18 stands rejected under 35 U.S.C. 102(b) as anticipated by Bohle. Claim 19 has been combined with Claim 18. So this rejection has been overcome. Accordingly, withdrawal thereof is respectfully requested.

RESPONSE TO 35 U.S.C 112 REJECTIONS

Claims 1 to 9 and 19 to 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to point out and distinctly claim the subject matter which applicant regards as his invention. Pivottally removable top has been inserted as suggested by the Examiner.

The original specification describes a sealable cover which is "removable or openable". Furthermore, Figure 4 depicts an arrow which shows the pivottally removable sealable cover. Pivottally removable is a subclass of removable cover because pivottally removable describes in what fashion the cover is removed. Therefore, pivottally removable is a narrower claim.

Accordingly, withdrawal thereof is respectfully requested.

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CONCLUSION

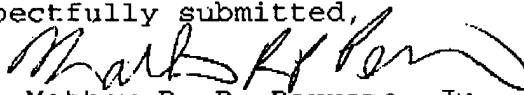
Accordingly, all rejections having been overcome by amendment or traversed by remarks, reconsideration and allowance of the instant application is respectfully requested. Applicant's attorney remains amenable to assisting the Examiner in the allowance of this application.

Applicant respectfully requests that a timely notice of allowance be issued in this case.

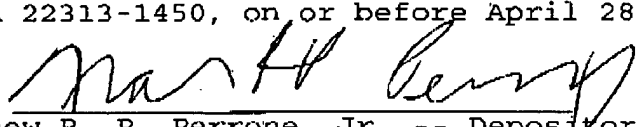
Alternatively, in the unlikely event that amendment does not make this application allowable, entry thereof is requested, because it greatly simplifies the issues on appeal.

Respectfully submitted,

By:


Mathew R. P. Perrone, Jr.
Reg. No. 22,951
Tel: (847)658-5140

I hereby certify that this correspondence is being deposited via fax to (571)273-8300 and addressed to: Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on or before April 28, 2006.


Mathew R. P. Perrone, Jr. -- Depositor

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Date of faxing on or before April 28, 2006.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PRIMARY EXAMINER

Appl. No. : 10/806,596
Applicant : Howard W. Bongratz
Filed : March 23, 2005
Title : Variable Height, Multiple Position
Batch Blender Assembly

TC/A.U. : 1723
Examiner : David L. Sorkin

Docket No. : Y3.0173

Mail Stop Non-Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

DEPOSIT ACCOUNT AUTHORIZATION

No fee is believed due with the enclosed amendment.

Nevertheless, you are hereby authorized to charge any deficiencies in that fee determination to my deposit account number 16-1375.

A duplicate original of this authorization is enclosed.


Mathew R. P. Perrone, Jr.

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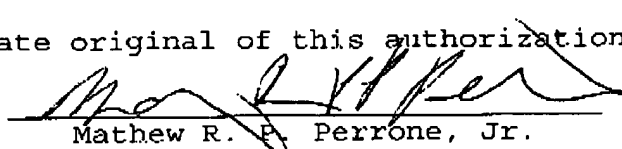
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